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October 24, 2011

Chief George Turner
Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

RE: Complaint of Olajuwan Wilson, Case #11-16

Dear Chief Turner:

The Atlanta Citizen Review Board ("ACRB") completed its investigation and adjudication of the complaint filed by Olajuwan Wilson and his mother, Annabel Thomas, concerning allegations of false imprisonment and excessive force.

Mr. Wilson, who is 17 years old, filed a timely complaint which alleged that on September 28, 2010, he was at the M & M Grocery Store at 911 Joseph E. Boone Boulevard, retrieving items for his mother. He was approached by Officer Jonathan Cornelius; a member of the now disbanded Red Dog Unit. Officer Cornelius asked if he could search him and Mr. Wilson replied, "What for. I did nothing wrong." He claims that Officer Cornelius told him if he did not allow the search, he would be arrested. Officer Cornelius searched his pants pockets and found nothing and then unbuckled his belt, reached inside his pants and touched his genitals, buttocks and anal area and did not find anything. The officer instructed Mr. Wilson to turn around and he complied, but then, out of fear, ran out of the store towards home. He was chased by a number of officers. He reached his house at 950 Neal Street and tripped and fell as he jumped over a fence. An officer jumped on his back and held his face to the ground and Mr. Wilson was surrounded by police officers who began to beat him throughout his body. Mr. Wilson felt nausea and vomited because of the hits to his abdomen. He complained the officers picked him up and searched him again and the search was aggressive. The officer snatched his belt off, went inside his pants and pulled and tugged and adjusted his genitals and buttocks. He was placed in the backseat of a patrol car and transported to a gas station. He vomited again and the officers took him out of the car and ordered him to remove his pants because they did not want to touch him. He removed his pants and the officer searched him again. He was transported to Grady Hospital where he was admitted and treated and released the following day

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Mr. Wilson's mother, Annabel Thomas, was home and heard a commotion in her yard. She observed her son lying face down on the ground and an unidentified police officer had his knee on Olajuwan's back. She observed the officer smash Olajuwan's face into the ground and, along with other officers, repeatedly hit her son. She yelled and asked the officers to stop beating her son. A van with several other officers arrived and the officer also approached her son and began to beat him. An African American officer pulled out his firearm, pointed it in her direction and told her, "Don't make me have to use this." Ms. Thomas said that she told the officer to do what he had to do and continued to attempt to have the officers stop hitting her son. She observed the officers pick up her son and put him in a patrol car and leave. She retrieved her handbag and assumed her son would be taken to the Fulton County Jail. A neighbor informed her that the police had her son at the corner and he was naked. She went to the location and saw her son in his underwear laying on a gurney in the ambulance and saw an officer shaking out his pants. An officer gave her Olajuwan's soiled clothing.

The Fulton County Court records revealed that Mr. Wilson was charged with four counts of Obstruction of Law Enforcement Officers and Possession of Marijuana. A motion to suppress was filed and a hearing was held. The judge held that Mr. Wilson, "had the right to withdraw any consent to search he may have given and to run from a first-tier police citizen encounter."

The Incident Report filed with this incident indicates that Officer Jonathan Cornelius was the officer who made the stop. He was accompanied by Officers Godwin, Devoto and Caldwell. The Use of Force Report indicated that Olajuwan Wilson put his hands in front of his pants and walked in the store. The officers approached Mr. Wilson and obtained consent to search his person. Officer Cornelius claims he observed a yellow baggie contained marijuana in his underwear. Officer Cornelius claims that he tried to retrieve the marijuana and Mr. Wilson pushed Officer Cornelius' arm away and fled on foot. Officers Godwin and Devoto chased him and caught up with him when Mr. Wilson fell. Officer Godwin jumped on top of him and he claims that Mr. Wilson refused to give up his hands by placing them under his body.

Some neighbors on Neal Street were interviewed. One neighbor, K.D., indicated that she saw officers chase Mr. Wilson. Officers had him laying face down on the ground with his arms behind his back and she saw three APD officers standing over Mr. Wilson and hitting him throughout his body. She pled with them to stop. She said the officers ignored her and shouted at her to step back. Mr. Wilson was picked up off the ground and placed in a police car. Another witness said that he observed officers chasing Mr. Wilson and one jumped on Mr. Wilson's back and both fell to the ground. The officer placed his knee in Wilson's back and began to hit him in his back and ribs. He saw Mr. Wilson vomit what appeared to be blood.

Officer Cornelius was interviewed and said that he, along with Officers Godwin and Devoto were patrolling the area when they observed Wilson standing in the front of the grocery store and when Wilson noticed the marked patrol car, he put his hands in his pants as if he was trying to conceal something. He said that the area is known for illegal drug activity and crime. Officer Cornelius said he entered the store, approached Mr. Wilson and asked him if he had any illegal drugs or weapons on him. He asked Wilson if he could search him and Wilson agreed. He conducted a pat down for weapons and because he observed Wilson put his hands in his pants, he pulled open the waistband of Mr. Wilson's trousers and looked down his underwear. He observed a small bag of marijuana next to his genitals and called out to Officer Devoto and Godwin for assistance. Wilson struck him in his left arm and ran out of the store. He yelled to Officers Devoto and Godwin and they all proceeded to chase after him.

Officer Cornelius said that while in pursuit, he received a call via radio from Officer Devoto advising that he needed to secure the patrol car and he did that. He went to the patrol car and he heard the officers were on Neal Street and Wilson was resisting. He then proceeded to Neal Street and saw that Wilson had been apprehended by other officers. Mr. Wilson was on the ground with his hands cuffed behind his back and officers were standing around him. He did not observe Officers Godwin or Devoto strike Mr. Wilson.

Officer Devoto said that he observed Officer Cornelius stop Mr. Wilson. He said Mr. Wilson struck Officer Cornelius and ran. He chased Mr. Wilson to a house on Neal Street and Wilson was tackled by Officer Godwin. He and Officer Godwin had difficulty cuffing Mr. Wilson because he did not put his hands behind his back. He held Mr. Wilson down by the shoulders and after a brief struggle, Officer Godwin managed to handcuff Mr. Wilson. He claims that at no time did he or any other officer strike Mr. Wilson.

Officer Godwin said that he observed Mr. Wilson in front of the grocery store and when he noticed the police, he shoved his hands into his pants and walked into the store. Officers Cornelius and Devoto entered the store and he moved the car out of traffic. Officer Godwin parked the car and walked into the store and observed Officer Cornelius and Mr. Wilson. Officer Devoto was at the front of the store. Officer Godwin observed a scuffle and heard Officer Cornelius say that Wilson was running so he pursued him on foot. He yelled for Mr. Wilson to stop but he continued running. He jumped over a fence and tripped, falling face down. Officer Godwin jumped on top of him and Officer Caldwell arrived and managed to handcuff one wrist. Wilson hid his right arm under his body. He wouldn't put his hand behind his back and tried to get up and Officer Godwin punched Wilson in the face, causing him to fall. Officer Devoto arrived and held Mr. Wilson down by his shoulders and Mr. Wilson finally gave up and surrendered his other arm.

Officer Caldwell was not interviewed because he resigned from the department on April 12, 2011. His report was considered by the Board.

After a careful review of the investigation, the Board voted to recommend that the allegation of **False Imprisonment** be **sustained** as to **Officer Cornelius**. Even assuming that the facts described by the officers are true, there were no grounds for the stop. A person's mere presence in a high crime area does not meet the Fourth Amendment requirement of particularized suspicion. Mr. Wilson was alone in a store in the middle of the day. He did not engage in flight. Even if the officers had possessed reasonable suspicion, they lacked adequate justification to search him. Even if Mr. Wilson consented to the interaction or the search, he was free to withdraw that consent at any time. Thus, the detention and arrest of Mr. Wilson was improper.

It is also noteworthy that no drugs were ever recovered. The Board had a lengthy discussion concerning this issue and expressed concern with the strip search of the complainant. They voted to recommend the imposition of a three day suspension for Officer Cornelius.

The second allegation considered was excessive force. The Board voted to **sustain** the allegation of **excessive force against Officers Devoto, Godwin and Caldwell**. Officer Caldwell has resigned, so no recommendation is made concerning his discipline. However, the Board voted to recommend that Officers Devoto and Godwin be suspended for five days and be provided with training about the proper manner to restrain individuals and the proper use of force. Officer Devoto denied striking Wilson and denied witnessing any officer strike him. Officer Godwin admits that he struck Wilson one time in the face because Wilson refused to surrender his hands in order to be handcuffed.

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There were eye witnesses to the incident who corroborated Mr. Wilson's claim that the officer beat him. For this reason, the Board voted to sustain this allegation and impose this level of discipline.

Please let me know if you will need any further information or would like a copy of the investigation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joy Morrissey", with a stylized flourish at the end.

Joy Morrissey,
Board Chair

cc: Mayor Kasim Reed
Council President Ceasar Mitchell
Members of Atlanta City Council
ACRB Members